

JUDGE PERMAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOC #09-2-cv

9200

William DiGianni,

Plaintiff Pro-se,

-against-

**COMPLAINT
FOR RETALIATION
UNDER THE
EMPLOYMENT DISCRIMINATION
ANTI-RETALIATION CLAUSE**

Pearson,

Pearson Education,

Defendants.

Jury Trial Demanded Yes

FILED
U.S. DISTRICT COURT
NOV -5 AM 10:39
S.D. OF N.Y.

This action is brought for adverse actions taken against me by the defendants under **TITLE V of the Civil Rights Act of 1964, under the Anti-Retaliation Clause of Title VII for employment discrimination** because I had filed complaints for discrimination in employment pursuant to:

X Title VII of the Civil Rights Act of 1964, as codified, 42 USC Sections 2000e to 2000e-17, which has Title V as an Anti-Retaliation Clause.

I. Parties in the complaint

A.

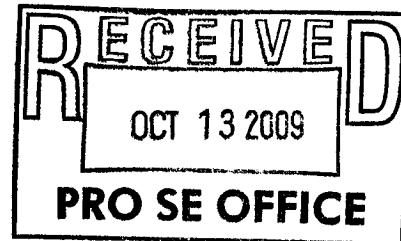
Plaintiff William DiGianni
2147 83rd Street
Brooklyn
New York, 11214
(917) 213-8335
GuillermoD05@aol.com

B.

Defendants:

Pearson
330 Ave. of the Americas
New York, N.Y. 10019

Pearson Education (a Division of Pearson)
One Lake Street
Upper Saddle River, N.J. 07458
(201) 236-7000



C. The address where the **adverse actions** the defendants took against me out of **Retaliation for my having filed Title VII complaints for employment discrimination** is:

William DiGianni
2147 83rd Street
Brooklyn, N.Y. 11214
(917)213-8335
GuillermoD05@aol.com

II. Statement of Claim:

A. The **averse action** I complain in this action about me

was out of **Retaliation** for my having filed Title VII Civil Rights complaints for employment discrimination, in the past.

B. It is my best recollection that the alleged adverse action taken against me by:

Pearson and Pearson Education, occurred on: July 13, 2009.

and

C. I believe that the defendants are still retaliating against me.

D. Defendants took adverse actions against me out of Retaliation because I had filed Title VII Civil Rights complaints for employment discrimination in the past.

E. The facts of my case are as follow:

I am an individual who has filed statutory Title VII complaints under the Civil Rights Act of 1964 for employment discrimination in EEOC and in Federal Court in the past.

Pearson and Pearson Education, knew that I had filed Title VII complaints under the Civil Rights Act of 1964 for employment discrimination in pursuit of my rights in the past in Federal agencies and in Federal Court; and

These defendants retaliated against me for doing so, in this action that took place on July 13, 2009 when they failed me by 3 (three) points on the Assessment of Teaching Assistant Skills Test (ATAS) of the New York State Teacher Certification Examination (NYSTCE) they administer for New York State, because they saw me as a troublemaker who filed Title VII complaints for employment discrimination in federal agencies and federal courts in the past, no matter what their outcome happened to have been. And because I take their action of failing me by three points as being averse to me. They knew about my Title VII complaints for employment discrimination because they had been defendants in them.

This is a Title V Retaliation Case under Title VII of the Civil Rights Act of 1964 for employment discrimination, and their actions which I feel to be aversive to me, were motivated out of retaliation against me, and violate the Anti-Retaliation Clause under Title VII of the Civil Rights Act of 1964 for employment discrimination, under which I am protected.

These defendants are still retaliating against me because I had filed Title VII complaints for employment discrimination in the past, because they see me as a troublemaker.

At the time I pursued my rights under Title VII of the Civil Rights Act complaints to the federal government, I had no idea that I would be getting lynched because of my efforts. I take their actions against me to have been aversive and retaliatory against me because I had filed those Title VII complaints for employment discrimination under the Civil Rights Act of 1964, in the past.

III. Exhaustion of Federal Administrative Remedies:

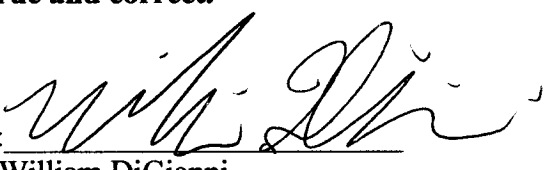
- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendants' alleged aversive Retaliatory actions under Title V for Retaliation under the Employment Discrimination Anti-Retaliation Clause of Title VII of the Civil Rights Act of 1964 on: August 27, 2009.
- B. The Equal Employment Opportunity Commission issued Notice of Right to Sue letter against Pearson Education which I received on October 6, 2009.

IV. Relief:

Wherefore, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs as follows: in the amount of at least \$5,000,000.00 (five million dollars) each, as well as punitive damages and exemplary charges, each, as the jury may allow.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 10th day of October, 2009.

Signature of Plaintiff: 

William DiGianni

Address

2147 83rd Street

Brooklyn, N.Y. 11214

Telephone Number

(917)213-8335

E-Mail address

GuillermoD05@aol.com

Fax Number

347-374-6325



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
For General Information: (800) 669-4000
TTY: (800)-669-6820
District Office: (212) 336-3620
General FAX: (212) 336-3625

William A. Digianni
2147 83rd Street
Brooklyn, NY 11214

Re: EEOC Charge No. 520-2009-04510
William A. Digianni v. Pearson Education

Dear Mr. Digianni:

This office is in receipt of your request for a *Notice of Right to Sue* on the above-referenced charge.

Ordinarily, a charging party or his/her counsel is not entitled to receive a *Notice of Right to Sue* upon request until the charge has been pending with the EEOC for at least 180 days. However, an early *Notice of Right to Sue* is authorized by 29 C.F.R. § 1601.28(a)(2) if the Director determines that the Commission will not be able to complete its administrative process within 180 days of the date the charge was filed.

After reviewing the circumstances of this charge, we have determined that issuing you the requested Notice of Right to Sue is warranted at this time, given our current workload and the extent of the additional information required to complete this investigation.

If you have any questions, please call Roxanne Zygmund, Investigator at (212) 336-3764.

Sincerely,


Spencer H. Lewis, Jr.
District Director

October 6, 2009
Date

cc:
File

EEOC Form 161-B (3/98)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: William A. Digianni
2147 83rd Street
Brooklyn, NY 11214

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2009-04510

Roxanne Zygmund,
Investigator

(212) 336-3764

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice;** or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

☐

More than 180 days have passed since the filing of this charge.

☒

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

☐

The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.

☐

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Spencer H. Lewis, Jr.,
Director

October 6, 2009
(Date Mailed)

Enclosures(s)

cc: PEARSON EDUCATION
1 Lake St
Attn: Director, Human Resources
Upper Saddle River, NJ 07458



**U.S. Equal Employment Opportunity Commission
New York District Office**

33 Whitehall Street
5th Floor
New York, NY 10004
(212) 336-3620
TDD: 1-800-669-6820
FAX (212) 336-3625
1-800-669-4000

Respondent: PEARSON EDUCATION
EEOC Charge No.: 520-2009-04510
FEPA Charge No.:

William A. Digianni
2147 83rd Street
Brooklyn, NY 11214

September 17, 2009

Dear Mr. Digianni:

This is to acknowledge receipt of the above-numbered charge of employment discrimination against the above-named respondent. Please use the "EEOC Charge No." listed above whenever you call us about this charge. The information provided indicates that the charge is subject to:

- ☒ Title VII of the Civil Rights Act of 1964 (Title VII)
- ☐ The Age Discrimination in Employment Act (ADEA)
- ☐ The Americans with Disabilities Act (ADA)
- ☐ The Equal Pay Act (EPA)

You need do nothing further at this time. We will contact you when we need more information or assistance. A copy of the charge or notice of the charge will be sent to the respondent within 10 days of our receipt of the charge as required by our procedures.

- ☒ Please be aware that we will send a copy of the charge to the agency listed below as required by our procedures. If the charge is processed by that agency, it may require the charge to be signed before a notary public or an agency official. Then the agency will investigate and resolve the charge under their statute. If this occurs, section 1601.76 of EEOC's regulations entitles you to ask us to perform a Substantial Weight Review of the agency's final finding. To obtain this review, a written request must be made to this office within 15 days of receipt of the agency's final finding in the case. Otherwise, we will generally adopt the agency's finding as EEOC's.
- New York State Division Of Human Rights
Federal Contract Unit
One Fordham Plaza, 4 Fl.
Bronx, NY 10458

While your charge is pending, please notify us of any change in your address, or where you can be reached if you have any prolonged absence from home. Your cooperation in this matter is essential.

Sincerely,

Roxanne Zygmund
Investigator
(212) 336-3764

Office Hours: Monday – Friday, 8:30 a.m. - 5:00 p.m.
www.eeoc.gov

Enclosure(s)

EEOC Form 5 (5/01)

Charge Presented To:

Agency(ies) Charge No(s):

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act. See enclosed Privacy Act Statement and other information before completing this form.

☐ FEPA☐ EEOC**RECEIVED**

AUG 27 2009

and EEOC

(917) 213-8335

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

MR. William DiGianni

Date of Birth

11/24/80

Street Address

2147 83RD ST. BROOKLYN N.Y.

City, State and ZIP Code

11219

EEOC-NYDO-CRTIU

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two are named, list under PARTICULARS below.)

Name

PEARSON ~~and Pearson Education, Inc.~~

No. Employees, Members

over 500

Phone No. with Area Code

Street Address

133 Ave of the Americas

City, State and ZIP Code

New York, N.Y.

10019

Name

Pearson Education, Inc.

No. Employees, Members

over 500

Phone No. with Area Code

201-236-7000

Street Address

One Lake Street

City, State and ZIP Code

Upper Saddle River, N.J.

07458

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE☐ COLOR☐ SEX☐ RELIGION☐ NATIONAL ORIGIN

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

7/13/09

☒ RETALIATION☐ AGE☐ DISABILITY☐ OTHER (Specify below)☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I Am an individual who has filed prior Title VII/Civil Right Act of 1964 for employment discrimination in various federal Agencies and courts. The Pearson and Pearson Education, Inc. were aware of my prior Title VII complaints - which were against them - when they took Adverse Action against me on 7/13/09 by informing me that I failed the Assessment of Teaching Assistant Skills test of the NYSTCE, by 3 points - out of Retaliation against me for having filed those Title VII complaints against them in the past - NO MATTER what their outcome.

I also have strong reason to believe that my prior Title VII cases motivated them to SABOTAGE my score - TO prevent me from passing - AND to prevent me from getting a job - AND they keep on doing it!! EXPEDITE my Right TO SUE Letter ASAP - Thank you.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State or Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

8-27-09

Date

Charging Party Signature